

CLOSED

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES,

Plaintiff,

v.

MARVIN TILLMAN,

Defendant.

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Crim. A. No. 06-528 (SRC)

ORDER

CHESLER, District Judge

This matter having come before the Court on Defendant's motion to reconsider his sentence [Docket Entry No. 67]; and

IT APPEARING that, on May 2, 2007, Defendant entered a guilty plea to Count One of the Indictment [Docket Entry No. 16], which charged that Defendant conspired to rob an armored vehicle and to commit and threaten physical violence in furtherance of that plan, in violation of 18 U.S.C. § 1951(a); and it further

APPEARING that, on March 5, 2008, this Court entered a judgment of sentence against the Defendant of, *inter alia*, 140 months imprisonment [Docket Entry No. 46]; and it further

APPEARING that, on March 6, 2008, Defendant appealed the sentence imposed by this Court to the Third Circuit Court of Appeals [Docket Entry No. 47]; and it further

APPEARING that Defendant filed the instant motion to reconsider the judgment of sentence while his appeal was pending before the Third Circuit; and it further

APPEARING that, if an appeal has been filed and a court of appeals has jurisdiction to hear the appeal, a district court lacks jurisdiction under Federal Rule of Criminal Procedure 35(b) to change a sentence;

THEREFORE, it is on this 9th day of March 2009,

ORDERED that Defendant's motion to reconsider the judgment of sentence is **DENIED**.

s/ Stanley R. Chesler
Stanley R. Chesler, U.S.D.J.